

APRRN/APNOR DISCUSSION PAPER

Supporting the Meaningful Participation and Leadership of Refugees, Migrants and Host Communities within a ‘Whole of Society’ Approach

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In recent years, numerous initiatives have been developed to enable the meaningful participation of refugees, migrants and host communities in decision-making processes that affect them. Refugee-led initiatives such as the Global Refugee-Led Network and its sub-regional networks, have sought to create a space for refugees, including refugee women and young refugees to engage directly with states, international organisations, civil society, and others in international, regional and national policy making. International organisations, civil society organisations, donors and states have also taken steps towards enabling and supporting the meaningful participation and leadership of refugees, migrants and host communities.

Alongside these initiatives, new legal instruments have also been developed which recognise the core value of meaningful participation and make commitments, albeit non-binding, from states towards enabling this participation and leadership. In December 2018, Member States of the United Nations General Assembly adopted both the [2018 Global Compact on Refugees](#) (GCR) and the [2018 Global Compact for Safe, Orderly and Regular Migration](#) (GCM). A key component of these instruments is ensuring the meaningful participation of refugees, host communities, migrants and diasporas in decision-making processes that affect them. In the GCR, the Programme of Action is underpinned by a ‘strong partnership and participatory approach’ to refugee protection that ‘involves refugees and host communities’ and includes ‘age, gender and diversity considerations’ (para 13). Similarly, in the GCM there is a commitment to a ‘whole-of-society approach’ to migration governance which ‘promotes broad multi-stakeholder partnerships to address migration in all its dimensions by including migrants, diasporas, local communities’ and other relevant stakeholders (para 15).

Commitments made in the Compacts represent a welcome shift in thinking about the participation and leadership of these groups in policy-making and governance. Under international law, there is no binding obligation mandating the participation of refugees or migrants in decisions that affect them, so the development of these normative commitments to participation is significant. However, for the commitments outlined in the Compacts to be realized, there needs to be more substantive consideration of how sustainable enabling environments for the meaningful participation of refugees, migrants and host communities can be co-created, under an effective, non-tokenistic ‘whole of society’ approach.

This brief discussion paper seeks to identify key considerations and discussion points for the effective implementation of these commitments, with a specific focus on exploring the requirements for ‘meaningful participation’. It is hoped that the discussions that emerge from

this paper will lead to a more nuanced understanding of ways to approach meaningful participation and leadership, among a wide range of stakeholders. A more detailed mapping of the extent and scope of states' commitments made in relation to the meaningful participation of refugees, migrants and host community members in the Compacts is also included as an Annex to this document.

Understanding participation –What, When, Where and How?

The participation of refugees, migrants and host communities in decision-making processes can take a variety of forms. It can range from affected communities exercising decision-making control, either solely or jointly, over the design, implementation, monitoring and evaluation of particular programmes through to states and organisations simply asking affected communities to identify and report on their particular needs. The absence of a single definition of participation means that in each decision-making process, the type and extent of participation needs to be considered, including what, when, where and how participation is to occur.

In the Compacts, different levels of participatory engagement are articulated. Some commitments made, particularly in relation to voluntary repatriation and return, require a higher-level of participatory engagement, given the requirement of free and informed consent outlined in both instruments, and the imperative of *non-refoulement*. However, other commitments to participation, such as asking a single migrant to speak on behalf of such a diverse community at the International Migration Review Forums, are more nominal. Generally, most commitments to participation in the Compacts do not precisely outline how, when and where participation is to occur. During the development of decision-making processes and the implementation of a whole of society approach, steps will need to be taken to ensure participation is meaningful at all times.

1. *What factors contribute to making participation in decision-making processes 'meaningful' and not tokenistic?*
2. *How has participation been attempted to date in relation to refugees, migrants and host communities? Are there promising practices that can be built on?*

Who participates?

A second key consideration in relation to enabling and ensuring the meaningful participation of refugees, migrants and host communities is determining who participates. This question has two parts. It requires consideration as to which groups of affected communities will be included, as well as how the diversity of persons within these groups will be represented.

In the Compacts, states have made commitments specifically in relation to refugees, migrants local and host communities. However, there are no specific consultative commitments in the Compacts in relation to other categories of forced migrants, such as internally displaced

persons, persons forcibly displaced by the adverse impacts of climate change, victims of human trafficking, and stateless people. There is also no explicit mention of the participation of LGBTIQ persons. Further, under international law, refugees are defined in Article 1A of the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol*, as well as in other regional refugee law instruments. However, international law does not define migrants or host or local community members, nor outline how they will be constituted and involved. Host communities are also distinct in that they have not left their country of origin and, as a consequence, have access to distinct political rights and in certain contexts may be able to participate politically within the governance processes of their own country.

Additionally, there are also questions in relation to representation. Refugees, migrants and host communities have diverse needs and aspirations. There are currently an estimated 26 million refugees globally and 244 million international migrants. One of the great challenges and goals of participatory efforts is to enable actively the diversity of needs, aspirations and identities of refugees, migrants and host communities, including women and other groups such as youth, children, elders and persons with disabilities, to be genuinely represented in decision-making forums. There is also the question as to what expectation of representation and leadership is appropriate going forward, particularly given that even among states there are arguably very few examples of governance models that perfectly reflect the diversity of all their constituents.

1. *What steps can/should be taken to ensure refugees, migrants and host communities are representative of their communities?*
2. *What specific steps can/should be taken to facilitate the participation of women and other under-represented groups such as children, youth, persons with disabilities, LGBTIQ persons and older persons?*
3. *Should steps also be taken to support the participation of other groups of displaced persons not covered in the Compacts, such as internally displaced persons, persons displaced by the adverse impacts of climate change etc?*

Co-creating enabling environments for meaningful participation

One of the core commitments outlined in the Compacts is for all relevant actors to work together as part of a ‘whole-of-society’ or ‘multi-stakeholder and partnership’ approach. This commitment is seen as central to more equitable responsibility-sharing for refugees, as well as greater international cooperation in all areas of migration. In relation to the meaningful participation and leadership of affected communities, this commitment requires all relevant actors – including states, international organisations, civil society actors, humanitarian and development organisations, the private sector, national human rights institutions, local authorities, the media, academia and others – to work cooperatively towards co-creating sustainable environments for meaningful participation and leadership.

In practice, affected communities face many barriers to being able to participate meaningfully in decision-making processes that affect them. Some of these barriers include:

- Lack of financial or human resources (including issues with volunteer-based participation);
- Restrictions on movement (both within and across borders) and legal status;
- Communication barriers (including language barriers, consultation time frames and insufficient flow of information, both from and to decision-makers);
- Context-specific political barriers (at local, national and regional levels);
- Cultural barriers (such as seeing affected communities as passive victims rather than leaders, knowledge holders and problem solvers); and
- Resistance from some actors to change (including gatekeepers).

In addition, particular groups of affected communities, such as women, children, persons with disabilities and older persons, may face additional barriers to participation, including from within their own communities. There are also potential risks to refugees, migrants and host communities arising from participation. These risks range from verbal and written threats and harassment, to arbitrary arrest and detention, deportation, physical abuse and other ill-treatment. Actors supporting the meaningful participation of affected communities need to support the preservation of participants' physical security, well-being and integrity. Steps need to be taken to ensure that participation is safe, sustainable and inclusive, with due attentiveness to age, gender, disability and diversity considerations.

1. *What additional barriers to participation do refugees, host communities and migrants face, including in context-specific settings?*
2. *What steps can/should be taken to address these barriers to participation and enable greater and more meaningful participation, including participation that is inclusive, safe and sustainable?*

Next steps towards the meaningful participation and leadership of refugees, migrants and host communities as part of the Compacts

In the lead-up to forums such as the Global Refugee Forum and the International Migration Review Forum, there are opportunities to pilot, strengthen, scale-up or replicate promising practices. These forums also present opportunities to more effectively monitor and review commitments made in the compacts in relation to meaningful participation and leadership. This is important given that very little data currently exists which measures progress in this area. At the same time, attention should also be given to considering, documenting and disseminating lessons that can be learnt from past experiences.

1. *Which promising practices relating to meaningful participation and leadership do you believe have potential for strengthening, scaling-up or replication?*
2. *Are there lessons that can be learnt from past policy failures?*
3. *What steps can/should be taken to effectively review and monitor commitments to participation made in the Compacts?*

ANNEX 1

Commitments to meaningful participation of affected communities in the Global Compact on Refugees and the Global Compact for Safe, Orderly and Regular Migration

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This brief maps the commitments states have made in relation to the meaningful participation of refugees, migrants and host communities in the [2018 Global Compact on Refugees](#) (GCR) and the [2018 Global Compact for Safe, Orderly and Regular Migration](#) (GCM). This mapping is important so that states and all other relevant actors clearly understand the extent and scope of the commitments made in the compacts in relation to meaningful participation, with a focus towards implementing them in practice.

Although non-binding as a matter of international law, commitments in the compacts represent ‘the political will and ambition of the international community as a whole for strengthened cooperation and solidarity with refugees and affected host countries’ (GCR, para 4) and, in the case of the GCM, a ‘collective commitment to improving international cooperation on international migration’ (para 8). These commitments should be read alongside the commitments made in the 2016 New York Declaration on Refugees and Migrants, which is the foundational document for both these compacts, as well as in accordance with international human rights instruments more broadly.

1. The Global Compact on Refugees

The GCR outlines three different types of commitments in relation to meaningful participation of refugees and host community members. First, there is a broad commitment ‘to develop and support consultative processes that enable refugees and host community members to assist in designing appropriate, accessible and inclusive responses’ (para 34). This includes exploring ‘how best to include refugees and members of host communities, particularly women, youth, and persons with disabilities, in key forums and processes, as well as diaspora, where relevant’ (para 34). These commitments are made based on the recognition by states of the instrumental value of meaningful participation of affected communities. In particular, the GCR states that ‘responses are most effective when they actively and meaningfully engage those they are intended to protect and assist’ (para 34).

There are also commitments made in relation to the meaningful participation of particular groups of refugees in the GCR. Paragraphs 74 to 77 of the GCR make specific commitments in relation to refugee women, children, adolescents and youth, while paragraph 13 also refers to the meaningful participation of persons with disabilities and older persons. These commitments include, among other things, contributions ‘to promote the meaningful participation and leadership of women and girls, and to support the institutional capacity and

participation of national and community-based women's organizations' (para 75). They also include supporting the 'active participation and engagement of refugee and host community youth ... through projects that recognize, utilize and develop their capacities and skills, and foster their physical and emotional well-being' (para 77). These commitments should be interpreted with consideration as to the binding commitments related to representative consultation and participation found in the *1979 Convention on the Elimination of All Forms of Discrimination against Women* (Art 7), the *1989 Convention on the Rights of the Child* (Art 12) and the *2006 Convention of the Rights of Persons with Disabilities* (Art 4).

Finally, the GCR also calls for states and relevant stakeholders 'to facilitate meaningful participation of refugees, including women, persons with disabilities, and youth, in Global Refugee Forums, ensuring the inclusion of their perspectives on progress' (para 106). These forums, which have been established in the GCR, are planned to take place every four years at the ministerial level with UN Member States and other stakeholders. They provide a significant opportunity for refugees to seek concrete pledges from states and other actors towards particular protection initiatives desired, as well as for refugees to make pledges themselves. There are also some opportunities for monitoring and review of commitments, both in the forums and the planned interim high-level meetings (paras 102-104).

2. The Global Compact for Safe, Orderly and Regular Migration

In the GCM, there are also commitments in relation to the participation of affected groups. In particular, the GCM promotes the inclusion of migrants, diasporas and local communities as part of a 'whole-of-society' approach to migration governance which is, among other things, 'people-centred' and implemented in compliance with international human rights law. This commitment is outlined as a key principle in paragraph 15. It is also reinforced in paragraph 44, where there is a commitment to implement the GCM in cooperation and partnership with these groups.

The GCM also mainstreams a 'gender-responsive' approach as a key principle which includes the promotion of 'gender equality and the empowerment of all women and girls' as agents of change, and recognises 'their independence, agency and leadership' (para 15). Most of the objectives of the GCM reference the need to address the particular needs of women and girls when designing and implementing policy responses, such as in relation to reviewing national labour laws and employment policies (para 22(k)) and efforts to address and reduce vulnerabilities in migration (objective 7). This implicitly requires some form of consultation with women and girls to occur. There is also a commitment towards upholding 'the principle of the best interests of the child at all times, as a primary consideration in all situations concerning children in the context of international migration', which is another guiding principle of the GCM (para 15). In accordance with international human rights law, such a commitment requires states and other actors to provide children who are capable of forming their own views the right to express those views freely in all matters affecting them, taking into account their age and maturity.

In relation to specific issue areas, more precise consultative commitments are also outlined. In particular, the facilitation of ‘safe and dignified return and readmission’ (objective 21) recognises the need to guarantee that such programmes ‘effectively take place on the basis of the migrant’s free, prior and informed consent’ (para 37(b)). This guarantee establishes a higher level of participatory engagement than found elsewhere in the GCM, and places the onus on states and other actors to ensure that free, prior and informed consent is obtained. This commitment must be interpreted in compliance with the international law principle of *non-refoulement*, which requires states not to return any individual, regardless of their migratory status, to a country where they may face a real risk of irreparable harm upon return, including persecution, torture, ill-treatment or other serious human rights violations.

Finally, there are also commitments to include the participation of migrants as a ‘relevant stakeholder’ in the follow up and review mechanisms established in the GCM, particularly the new International Migration Review Forum (IMRF) to be held every four years. This forum is designed to monitor the implementation of the GCM at all levels of governance, ‘with a view to building upon accomplishments and identifying opportunities for further cooperation’ (para 49 (d)). Participation will also extend to regional review forums that will alternate with the IMRF.

The format and organizations aspects of the IMRF were finalised among states through a [UN General Assembly resolution](#) adopted on 15 July 2019. This resolution outlines that the forum will be convened under the UN General Assembly at the highest possible political level, including heads of government (para 1 (e)). The President of the UN General Assembly will put forward a list of potential non-state representatives (including migrant and youth organisations, and diaspora communities) for consideration by states prior to each forum (para 5). It is proposed that one representative from the migrant community will also be able to make a statement in the opening plenary of the forum (para 18 (c)). Opportunities at the local, national, regional, and global levels, as part of a ‘global knowledge platform’, may also enable more substantial input (para 13). The GCM also encourages the development of national implementation plans or national responses to the implementation of the global compact that should draw on contributions from all relevant stakeholders including migrants, diasporas and local communities (para 53).

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